



**US Army Corps
of Engineers.**

Public Notice

Public Notice No. **05-91**

Date: **November 2, 2005**

Nashville District

Application No. **980017460**

Please address all comments to:
Nashville District Corps of Engineers, Regulatory Branch
3701 Bell Road, Nashville, TN 37214-2660

JOINT PUBLIC NOTICE **US ARMY CORPS OF ENGINEERS** **AND** **COMMONWEALTH OF KENTUCKY**

SUBJECT: Proposed Coal Mining in Harlan County, Kentucky - Kentucky Department for Natural Resources (KDNR) #848-0183, Creech Surface Mine

TO ALL CONCERNED: The application described below has been submitted for a Department of the Army (DA) permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344). Before a permit can be issued, certification must be provided by the Commonwealth of Kentucky, Division of Water (KDOW), pursuant to Section 401(a)(1) of the CWA, that applicable water quality standards will not be violated. By copy of this notice, the applicant hereby applies for the required certification.

APPLICANT: Jericol Mining, Inc.
P.O. Box 85
Keokee, Virginia 24265

AGENT: MMC, Inc.
P.O. Box 33
Jenkins, Kentucky 41537

LOCATION: The proposed permit area is located approximately 1.9 miles east of the Holmes Mill community in Harlan County, Kentucky. Watersheds include Lower Trace Branch and five unnamed tributaries to Clover Fork Cumberland River between Miles 28.5L and 31.7L. The site is on the Benham and Keokee, KY-VA 7.5 Minute Quadrangles at Latitude 36° 51' 53" North, Longitude 82° 58' 04" West.

DESCRIPTION: Jericol Mining has applied to the KDNR for a Surface Mining Control and Reclamation Act (SMCRA) permit renewal to conduct mining activities at the above location. The KDNR permit area encompasses 541.13 total acres of which 418.52 acres are surface impacts. In order to facilitate the mining operation, Jericol Mining has

applied to this office for an individual DA permit to permanently and temporarily discharge fill material into Lower Trace Branch and five unnamed tributaries to Clover Fork Cumberland River. The anticipated impacts to waters of the U.S. would total 5,925 linear feet. Aquatic impacts associated with the operation include hollow fills, sediment ponds, and drainage corridors.

The total length of stream mitigation proposed is 10,005 linear feet. A total of 8,220 linear feet would be in the form of establishing side drains around the hollow fill and reestablishing of stream features in the reaches below the hollow fills impacted by the mining operation. A total of 1,785 linear feet would be in the form of stream channel creation through the hollow impacted by Hollow Fill 3. This hollow lacks drainage features consistent with waters of the U.S. due to pre-law disturbance activities.

The proposed "Reach No. 1" reaches for Hollow Fills No. 1, 2, 3, 4, 5, 7 and 8 (will involve a shallow sloping channel which will discharge into "Reach No. 2" reaches for these same fills. This channel will extend from the center of the fill to the side of the fill at an approximate 2% slope. This channel will create shallow pool areas around the perimeter of the fill.

The proposed "Reach No. 2" reaches for Hollow Fills No. 1, 2, 3, 4, 5, 7 and 8 will involve steeper channel along with very shallow grade areas to create riffles and shallow pool areas. The channel slope between the fill terraces will be approximately 50% and the slope at the terrace areas will be approximately 1-2% to provide aquatic habitat.

The proposed "Reach No. 3" reaches for Hollow Fills No. 1, 2, 3, 7 and 8 have habitat enhancing structures proposed. Low stage check dams are proposed to be constructed with 8"-12" logs. These low stage check dams will pool some water upstream and create plunge pools downstream. The stream channels for Reach No. 3 will be lined with cobbles and boulders to stabilize prevent erosion and convey the 100-year 24-hour storm event.

Mitigation for the impact would be performed onsite and concurrent with the mining operation. The full bank width will be designed to accommodate a 100 year, 24 hour storm event. Tree and scrubs would be planted on 12 foot by 12 foot centers in the proposed riparian/buffer zone. The buffer width proposed is 50 linear feet from the centerline of the reconstructed channels. The applicant applied the Eastern Kentucky Stream Assessment Protocol to the project to quantify the anticipated impacts and the proposed mitigation effort.

General plans of the work and mitigation reaches are attached to this notice. The applicant intended to provide a package of information directly to the KDOW and U.S. Fish and Wildlife Service (USFWS) for their review. Additional plans and information, including the mitigation proposal and documentation provided in support of the permit application, are available upon request.

The permit decision will be based on an evaluation of the probable impacts including cumulative impacts of the activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the work, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the work, will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. The evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b)(1) of the CWA (40 CFR Part 230). A permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. Comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above and used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. This office will prepare an EA prior to a final decision concerning issuance or denial of the requested DA Permit.

The National Register of Historic Places has been consulted and no properties listed in or eligible for the National Register are known which would be affected by the proposed work. This review constitutes the full extent of cultural resources investigations unless comment to this notice is received documenting that significant sites or properties exist which may be affected by this work, or that adequately documents that a potential exists for the location of significant sites or properties within the permit area. Copies of this notice are being sent to the office of the State Historic Preservation Officer.

Based on available information, the proposed work will not destroy or endanger any Federally-listed threatened or endangered species or their critical habitat, as identified under the Endangered Species Act. Therefore, we have reached a no effect determination. Initiation of formal consultation procedures with the USFWS is not planned at this time. A copy of this notice is being furnished to the USFWS. The USFWS is requested to review the project as currently proposed and comment concerning any likely effect to any threatened or endangered species or their critical habitat.

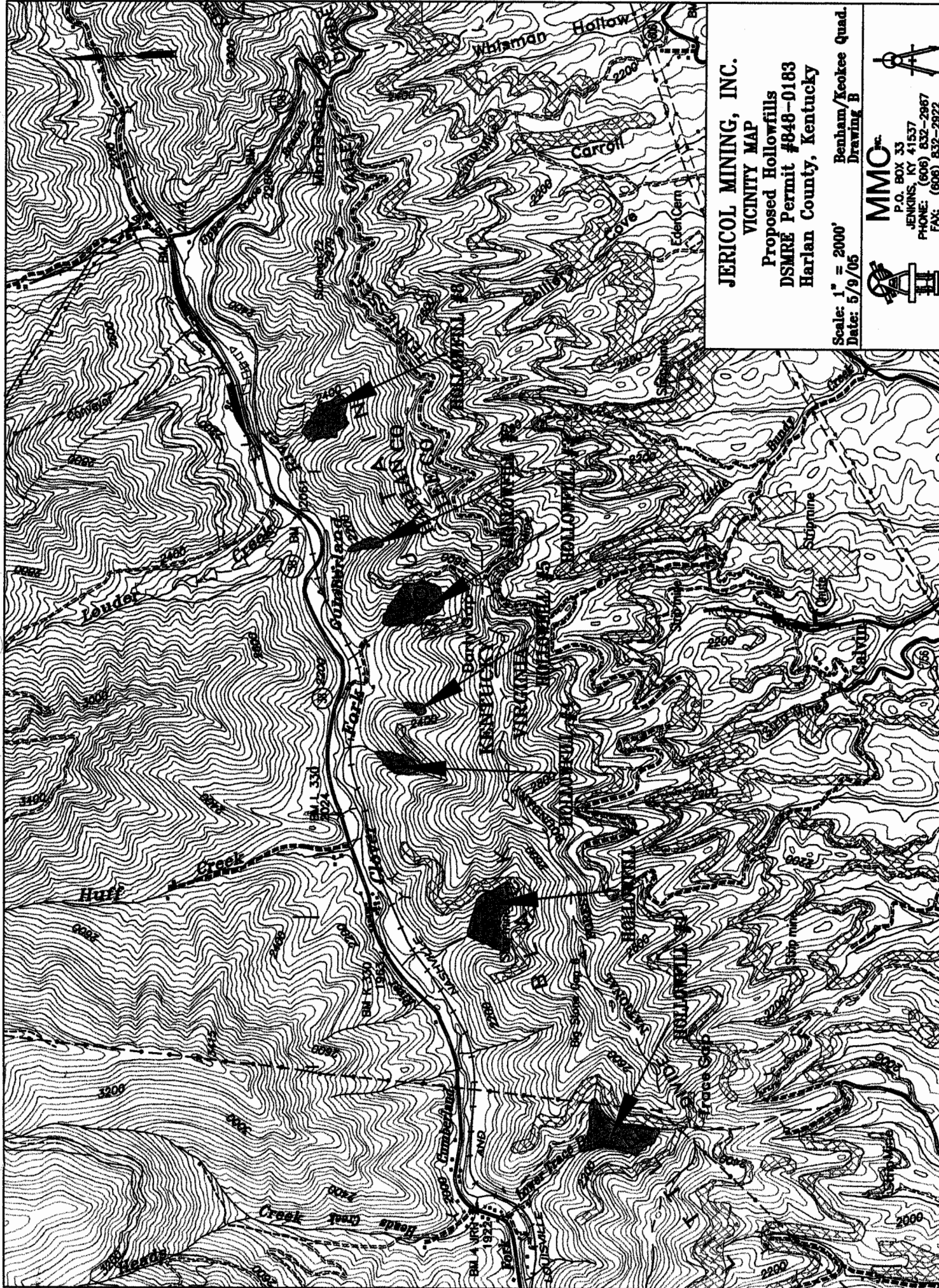
- Other federal, state, and local approvals required for the proposed work are as follows:

- a. Water quality certification from the KDOW in accordance with Section 401(a)(1) of the Clean Water Act.

- b. A Surface Mining Control and Reclamation Act (SMCRA) permit from the KDNR.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

Written statements received on or before December 2, 2005, will become a part of the record and will be considered in the determination. Written responses to this notice should be directed to the Regulatory Branch, Attention: Mr. Marty Tyree, at the above address. Questions can be directed to Mr. Tyree at (615) 369-7514. It is not necessary to comment separately to the KDOW since copies of the comments will be forwarded to that agency. However, if you wish to send §401 Water Quality Certification specific comments directly to that agency, please send your comments to Ms. Joyce Fry, KDOW, 14 Reilly Road, Frankfort, Kentucky 40601.



JERICOL MINING, INC.
VICINITY MAP

Proposed Hollowfills
DSMR Permit #848-0183
Harlan County, Kentucky

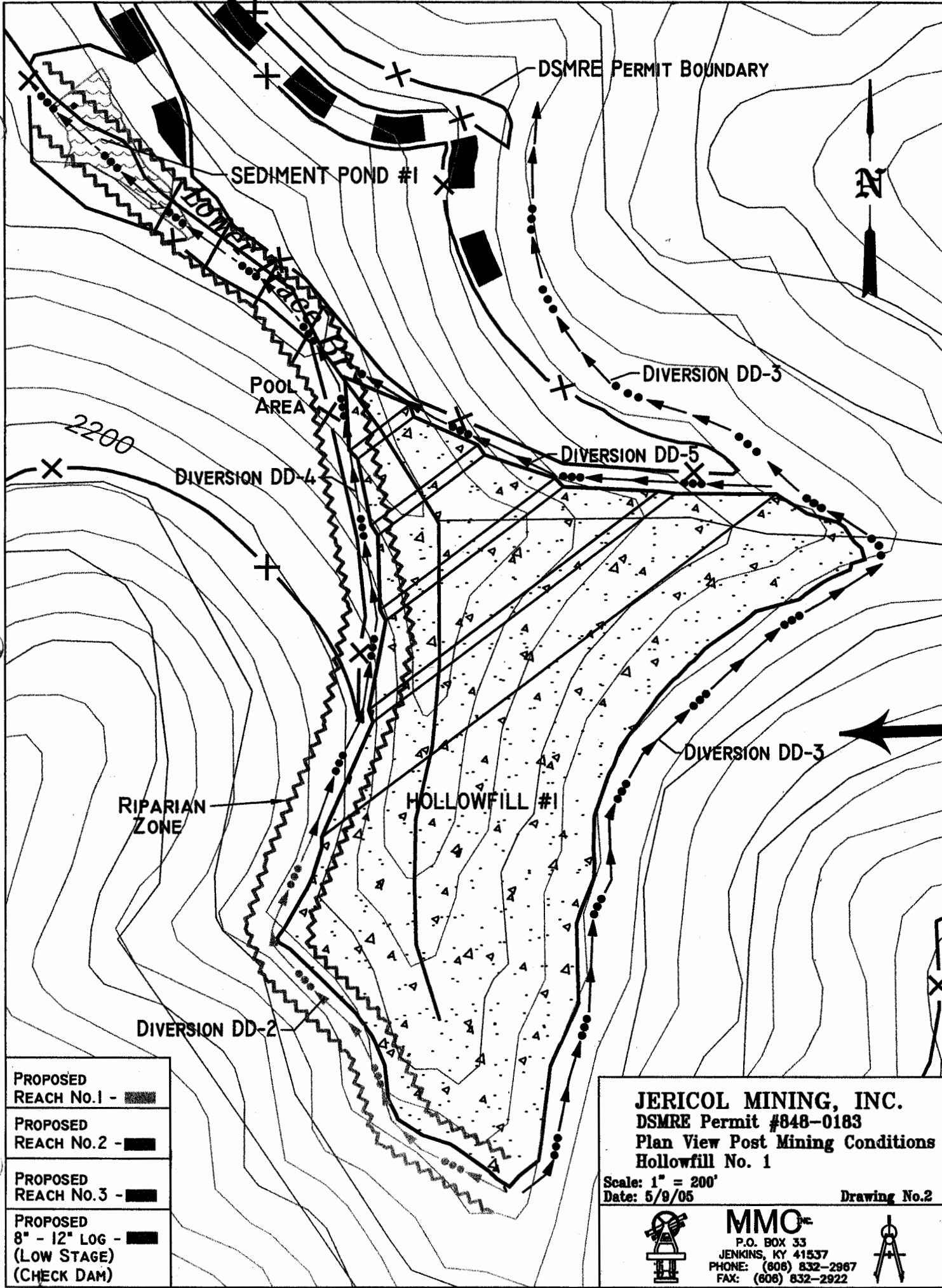
Scale: 1" = 2000'
Date: 5/9/05

Benham/Keokee Quad.
Drawing B

MMC

P.O. BOX 33
JENKINS, KY 41537
PHONE: (606) 832-2987
FAX: (606) 832-2922





- PROPOSED
REACH NO.1 - [stippled pattern]
- PROPOSED
REACH NO.2 - [solid black pattern]
- PROPOSED
REACH NO.3 - [dashed pattern]
- PROPOSED
8" - 12" LOG - [solid black pattern]
(LOW STAGE)
(CHECK DAM)

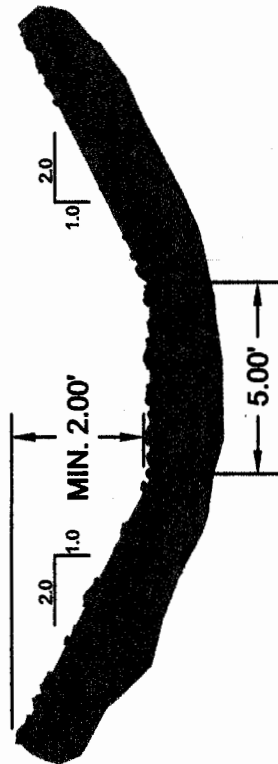
JERICOL MINING, INC.
DSMRE Permit #848-0183
Plan View Post Mining Conditions
Hollowfill No. 1

Scale: 1" = 200'
Date: 5/9/05
Drawing No.2



MMO
P.O. BOX 33
JENKINS, KY 41537
PHONE: (606) 832-2967
FAX: (606) 832-2922





CHANNEL MATERIAL: BOULDERS WITH COBBLES,
D_{min} = 5 in. D₅₀ = 9 in. D_{max} = 12 in.

REACH 3

NOTE:
FOR HOLLOWFILL NUMBERS 1, 2, 3, 7 & 8.



MMC
MINE MANAGEMENT CONSULTANTS, INC.
P.O. BOX 22, JERICOL, NY 11537
TEL (516) 832-2007



JERICOL MINING, INC.
PERMIT NO. 848-0183

DRAWING NO. 23

PROPOSED STREAM REACH DETAILS

SCALE	N.T.S.	DESIGN BY	BSS	APPROVED BY	MEW	PERMIT NO.	848-0183
DATE	5-9-05	FILE NAME	POSTMININGPROFILE.DWG	SHEET NO.	23 OF 23		

EII Calculation for High Gradient Streams in Eastern Kentucky Coalfield (VERSION 2002.6)

(Genus/species Level Taxonomy - All Habitats)

Project ID: Lower Trace Branch of Clover Fork of the Cumberland River Hollowfill No. 1
Stream/Reach: Existing Reach #2 Jericol Mining, Inc. - DSMRE Permit No. 848-0183
Assessment Objectives:

EII	Model
NA	Ecological Integrity Index (MBI + Habitat Integrity + Conductivity)
0.17	Ecological Integrity Index (Habitat Integrity + Conductivity)

Variables Measure Units

Enter quantitative or categorical measure from Field Data Sheet in shaded cells

RBP Habitat Parameters

1. Epifaunal Substrate	10	no units (0-20)
2. Embeddedness	11	no units (0-20)
3. Velocity/Depth Regime	10	no units (0-20)
4. Sediment Deposition	10	no units (0-20)
5. Channel Flow Status	10	no units (0-20)
6. Channel Alteration	10	no units (0-20)
7. Freq. Of Riffles (bends)	12	no units (0-20)
8. Bank stability (both combined)	16	no units (0-20)
9. Veg. Protection (both combined)	12	no units (0-20)
10. Riparian Width (both combined)	12	no units (0-20)

Total Habitat Score 113 no units

Habitat Integrity Index

Subindex

0.23

Macroinvertebrate Data - Genus/species Level (All Habitats)

11. Genus/species Taxa Richness	# of taxa sampled
12. Genus/species EPT Richness	# of EPT species sampled
13. % Ephemeroptera	% Mayflies (0-100)
14. % Chironomidae & Oligochaeta	% Midges & Worms (0-100)
15. % Clingers	% Clingers (0-100)
16. mHBI	no units

Macroinvertebrate Bioassessment NA no units

NA

Conductivity 770 microM/ICs

0.10



Inputs		Time Horizon:		7		Impacted Site		Mitigation Site																					
Project ID #:		DSMPCE #042-P112; 000017440		Impact Year: 2005		Ecological Integrity Index		Mitigation Work Timing & Risk																					
Project Name:		Hollowfill No. 1		Pre-Impact		Post-Impact		Length		Balance		Mitigation Reach (MR) Name		Year Started		Year Matured		Failure Risk		Pre-Work		Immediately After Work		At Maturity		Mitigation (Length Required)		Mitigation (Length Offered)	
Impact Reach (IR):				0.17	0.06	0.17	0.06	2075	1514			Proposed Reach No. 1		2006	2010	20%	0.00	0.10	0.18	2885	780								
Proposed Mitigation #MR1 No. 1 Reach 1,2,3,4,4				0.17	0.00	0.17	0.00					Proposed Reach No. 2		2006	2010	20	0.00	0.10	0.18	2105	750								
Reach Continued				0.17	0.00	0.17	0.00		974			Proposed Reach No. 3		2006	2010	20	0.00	0.10	0.22	1178	720								
Reach Continued				0.17	0.00	0.17	0.00		379			Proposed Reach No. 4 HSB		2006	2010	10	0.00	0.10	0.45	578	635								
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Ecological Integrity Compensation Ratios		Ratio
Impact Reach vs Mitigation Reach	(mitigation site feet)	per Impact site foot
IR vs MR1		1.30
IR vs MR2		1.30
IR vs MR3		1.24
IR vs MR4		1.55
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